

10433

I N A S S E M B L Y

March 25, 2010

Introduced by M. of A. SKARTADOS -- read once and referred to the
Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to limiting an
employer's access to consumer credit reports in connection with
employment applications

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Paragraph 3 of subdivision (a) of section 380-b of the
2 general business law, as amended by chapter 797 of the laws of 1984, is
3 amended to read as follows:
4 (3) To a person whom it has reason to believe intends to use the
5 information (i) in connection with a credit transaction involving the
6 consumer on whom the information is to be furnished and involving the
7 extension of credit to, or review or collection of an account of, the
8 consumer, or (ii) for employment purposes IN ACCORDANCE WITH THE
9 PROVISIONS OF SUBDIVISION (E) OF THIS SECTION, or (iii) in connection
10 with the underwriting of insurance involving the consumer, or (iv) in
11 connection with a determination of the consumer's eligibility for a
12 license or other benefit granted by a governmental instrumentality
13 required by law to consider an applicant's financial responsibility or
14 status, or (v) to a person in connection with a business transaction
15 involving the consumer where the user has a legitimate business need for
16 such information, or (vi) in connection with the rental or lease of a
17 residence.
18 S 2. Section 380-b of the general business law is amended by adding a
19 new subdivision (e) to read as follows:
20 (E) NO PERSON SHALL REQUEST A CONSUMER CREDIT REPORT OR A CONSUMER
21 REPORT, OTHER THAN AN INVESTIGATIVE CONSUMER REPORT, IN CONNECTION WITH
22 AN APPLICATION FOR EMPLOYMENT UNLESS THE POSITION FOR WHICH THE APPLI-
23 CANT IS APPLYING OR INTERVIEWING ENTAILS DIRECT ACCESS TO FUNDS OR NEGOTI-
24 ATIONABLE INSTRUMENTS OR DIRECTLY INVOLVES FINANCIAL OVERSIGHT OR RESPONSIBI-
25 LITY, OR IS OTHERWISE REQUIRED BY LAW.
26 S 3. Subdivision (d) of section 380-c of the general business law, as
27 added by chapter 867 of the laws of 1977, is amended to read as follows:

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 (d) If a person applying for credit, insurance, or employment refuses
2 to authorize the procurement or preparation of an investigative consumer
3 report, the prospective creditor, insurer or employer may decline to
4 grant credit, insurance or employment on the grounds that the applicant
5 refused to execute such authorization; PROVIDED THAT AN EMPLOYER MAY NOT
6 DECLINE TO OFFER EMPLOYMENT ON THE GROUNDS THAT A PROSPECTIVE EMPLOYEE
7 REFUSES TO AUTHORIZE THE PROCUREMENT OR PREPARATION OF A CONSUMER CREDIT
8 REPORT OR CONSUMER REPORT TO WHICH THE EMPLOYER IS NOT ENTITLED PURSUANT
9 TO SUBDIVISION (E) OF SECTION THREE HUNDRED EIGHTY-B OF THIS ARTICLE.
10 S 4. This act shall take effect immediately.